

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

INTERCON SOLUTIONS, INC.,)	
)	
Plaintiff/Counterclaim-)	
Defendant,)	
)	Case No. 1:12-CV-06814
v.)	
)	Judge Virginia Kendall
BASEL ACTION NETWORK)	
and JAMES PUCKETT)	
)	
Defendants/Counterclaim-)	
Plaintiff.)	

DEFENDANTS' ANSWER, AFFIRMATIVE DEFENSES, AND COUNTERCLAIM

Defendants Basel Action Network ("BAN") and James Puckett, ("Defendants") respond to Plaintiff's Complaint as follows:

PARTIES

1. Plaintiff, Intercon Solutions, Inc. ("Intercon"), is a California corporation authorized to do business in Illinois whose offices and plant are located at 1011 Washington Avenue, Chicago Heights, Illinois 60411. Intercon provides electronic recycling ("e-recycling") services. In the e-recycling business, companies obtain certifications of compliance with certain industry standards upon which some customers rely.

ANSWER: Defendants admit the allegations in Paragraph 1, except that Defendants deny that Intercon actually provides electronic recycling services, or if it provides them, to the extent that it represents.

2. Basel Action Network ("BAN") is a Washington non-profit corporation that certifies business in Illinois and elsewhere that provide e-recycling services. Through its website and other advertising, BAN attempts to persuade e-recycling businesses in Illinois and elsewhere to seek to be certified under its "e-Stewards" certification program rather than under other certification programs offered by competing vendors. In return for the payment of BAN's fees, BAN audits e-recycling businesses to determine if they qualify for its "e-Stewards" certification. BAN assures such e-recycling businesses that they will obtain a competitive advantage because BAN purports to act in an ethical and impartial manner during the certification process so that customers of e-recycling services will rely on BAN's assurances that recyclers with BAN's "e-Stewards" certification adhere to the industry standards regarding environmental responsibility and worker protection, when such e-recycling customers decide whether or not to do business with a particular e-recycling services company. In reality, however, BAN acts on a clandestine

and partisan motive to publicly abuse, and "out" (in the sense of revealing in a defamatory manner) the e-recycling businesses who relied on BAN's assurances of good faith, impartiality, and confidentiality in applying for BAN's "e-Stewards" certification, but who BAN unilaterally chose not to grant the certification so BAN can create a false reputation as a crusader and ethical leader in the e-recycling industry, in order to increase enrollment in BAN's "e-Stewards" certification program and increase its revenues.

ANSWER: Defendants admit that BAN is a 501(c)(3) charitable organization located in Seattle, Washington. Defendants further admit the allegations in the second sentence of Paragraph 2. Defendants deny the allegations in the first sentence of Paragraph 2, and affirmatively allege that BAN has created an industry performance standard and a program known as e-Stewards® by which third-party Certifying Bodies (CBs) audit and certify recycling companies after these companies have passed all audits demonstrating that they have met the standard and have signed a license agreement with BAN. Defendants deny the allegations in the third sentence of Paragraph 2 and affirmatively allege that they do not conduct audits, but that these audits are conducted by third-party CBs operating under license to BAN and accredited by an independent accreditation body. BAN denies any remaining allegations in Paragraph 2.

3. James Puckett ("Puckett") is an individual residing in Washington and is the founder and Executive Director of BAN.

ANSWER: Defendants admit the allegations in Paragraph 3.

JURISDICTION AND VENUE

4. This Court has jurisdiction pursuant to Section 2-209 of the Illinois Code of Civil Procedure, because the transaction of business was performed within the State of Illinois. 735 ILCS 5/2-209. Venue is proper pursuant to Section 2-101 of the Illinois Code of Civil Procedure, because the transaction or some part thereof occurred in Cook County. Jurisdiction and venue are also proper because BAN's agents performed BAN's unlawful surveillance and wholly deficient "investigation" that led to BAN's false accusations against Intercon and some or all of their "e-Stewards" certification audit on BAN's behalf and for BAN's benefit in Cook County, Illinois.

ANSWER: Paragraph 4 contains conclusions of law for which no response is required. To the extent that a response is required, Defendants state that this case has been removed to the district court for the Northern District of Illinois pursuant to 28 U.S.C. §§ 1332, 1441(b), and 1446. Defendants deny any remaining allegations in Paragraph 4.

GENERAL ALLEGATIONS

5. Intercon retained BAN to organize an audit on Intercon's business so that Intercon could obtain the e-Stewards certification certifying that it conducts electronic recycling according to industry standards.

ANSWER: Defendants deny the allegations in Paragraph 5 and affirmatively allege that BAN does not organize or conduct audits to its e-Stewards Certification program. The audits are conducted by third-party CBs that are licensed by BAN and accredited by an independent accreditation body to perform these functions.

6. Upon information and belief, BAN, after obtaining Intercon's confidential information, under false pretenses, abusing the access and information that Intercon had provided to BAN in reasonable reliance on BAN's assurances that it would not abuse the audit process, began an unlawful surveillance of Intercon's premises.

ANSWER: Defendants deny the allegations in Paragraph 6. Defendants affirmatively allege that BAN obtained information concerning possible export of e-waste by Intercon prior to the CB audit of Intercon. BAN passed this information to the CB and its auditor. BAN does not conduct audits as part of the e-Stewards Certification program. BAN denied Intercon Solutions a license to become duly certified in accordance with BAN's Critical Non-conformity Policy after a careful review of the evidence.

7. After BAN's improper use of Intercon's confidential information and illicit investigation, BAN wrongly concluded and made false public accusations that two containers parked on Intercon's premises contained hazardous e-Waste materials, that Intercon owned the supposedly hazardous e-Waste materials held within the containers, and that Intercon shipped the container with hazardous material to China and Hong Kong.

ANSWER: Defendants deny the allegations in Paragraph 7.

8. In reality, Intercon did not own the alleged hazardous e-Waste, did not ship the containers or any e-Waste to China or Hong Kong, and never shipped hazardous material to China or Hong Kong.

ANSWER: Defendants deny the allegations in Paragraph 8.

9. Even though BAN knew or should have known that its investigation and audit of Intercon were flawed and that its accusations were false, BAN began a defamatory attack against Intercon by posting false information on its public website and releasing false allegations on the

internet and to the press by falsely accusing Intercon of illegally shipping e-Waste to China and Hong Kong.

ANSWER: Defendants deny the allegations in Paragraph 9.

10. Specifically, on or about June 28, 2011, Puckett, as Executive Director of BAN, falsely stated in a letter posted on BAN's website that "there is substantial evidence that during the period of time that Intercon Solutions was contracted to be certified, Intercon Solutions exported hazardous electronic waste to China...in violation of the e-Stewards Standard for Responsible Recycling and Reuse of Waste." A true and correct copy of the letter is attached hereto as Exhibit 1. The letter further stated that "there is substantial reason to believe that such exports may violate Public Act 095-0959...of the State of Illinois, the Federal CRT Rule,... as well as the waste importation laws of Hong Kong/China." Exhibit 1.

ANSWER: Defendants admit that Mr. Puckett, as Executive Director of BAN, made the quoted statements in the referenced letter attached as Exhibit 1 to the Complaint, and that the letter was posted to BAN's website. Defendants deny any remaining allegations in Paragraph 10.

11. Such letter was also sent to "selected news media," John Lingelbach of R2 Solutions, and John Fraser of SAI Global, among others, and has been and remains readily accessible on the internet. See Exhibit 1.

ANSWER: Defendants admit the allegations in Paragraph 11.

12. On or about June 28, 2011, BAN attached to its letter that it posted on its website (attached as Exhibit 1 to this Complaint) its purported "Evidentiary Report of Potential e-Stewards Violation" (the "Evidentiary Report"). See Exhibit 2. The Evidentiary Report falsely implied that BAN had evidence and facts to support its accusations against Intercon when, in fact, BAN had no such evidence or facts.

ANSWER: Defendants admit that BAN attached to the letter referenced in paragraph 10 the "Evidentiary Report of Potential e-Stewards Violation." Defendants deny any remaining allegations in Paragraph 12.

13. BAN's "Evidentiary Report" falsely accused Intercon of illegally shipping containers containing e-Waste to China and Hong Kong in violation of US and Chinese law and further falsely stated that containers that Intercon shipped to China and Hong Kong "may contain shipments of electronic waste." Exhibit 2.

ANSWER: Defendants deny the allegations in Paragraph 13.

14. Like the June 28, 2011 letter, BAN's defamatory Evidentiary Report was publicized to "selected news media," John Lingelbach of R2 Solutions, and John Fraser of SAI Global and has been and remains readily accessible on the internet. See Exhibit 2.

ANSWER: Defendants admit that the Evidentiary Report was publicized to John Lingelbach of R2 Solutions and John Fraser of SAI Global. Defendants further admit that the Evidentiary Report has been and remains accessible on the internet in accordance with the e-Stewards Critical Non-Conformity Policy. Defendants deny that the Evidentiary Report is “defamatory.” Defendants deny any remaining allegations in Paragraph 14.

15. On or about July 5, 2011, BAN posted and continues to post on its website, www.ban.org, yet another defamatory press release that publicized BAN's false statements that BAN had denied Intercon the e-Stewards certification because BAN purported to have (but did not have) "'compelling evidence' that Intercon had been exporting hazardous waste to China, in violation of the UN's Basel Convention." Exhibit 3.

ANSWER: Defendants admit that BAN has “‘compelling evidence’ that Intercon had been exporting hazardous waste to China, in violation of the UN’s Basel Convention” and that BAN therefore denied Intercon the e-Stewards certification and posted and continues to post a press release publicizing BAN’s statements in that regard in accordance with the e-Stewards Critical Non-Conformity Policy. Defendants deny that the press release is “defamatory.” Defendants deny any remaining allegations in Paragraph 15.

16. In this press release, Puckett stated in an obvious reference to Intercon that “[i]t is very sad that many e-Waste recycling companies continue to pose as 'responsible recyclers' while they continue to export toxic waste....In this case, we can take some satisfaction that our e-Stewards Certification screening methods and audit caught what Ban has every reason to believe is a violator." Exhibit 3.

ANSWER: Defendants admit that Mr. Puckett stated that “[i]t is very sad that many e-Waste recycling companies continue to pose as ‘responsible recyclers’ while they continue to export toxic waste....In this case, we can take some satisfaction that our [sic] e-Stewards Certification screening methods and audit caught what Ban has every reason to believe is a violator.” Defendants deny any remaining allegations in Paragraph 16.

17. On August 4, 2011, BAN released another press release, in which Puckett falsely stated that one of Intercon's containers "was known to contain hazardous waste." Exhibit 4. BAN and Puckett's defamatory statements about Intercon continue to the present day.

ANSWER: Defendants admit that Exhibit 4 to the Complaint is an accurate copy of a statement by BAN. Defendants deny any remaining allegations in Paragraph 17.

COUNT I – DEFAMATION:
BAN

18. Intercon realleges and incorporates by reference Paragraphs 1 through 17 of the General Allegations to the Complaint herein.

ANSWER: Defendants reallege and incorporate by reference their responses to Paragraphs 1 through 17.

19. The false statements made by BAN that Intercon shipped illegal and hazardous materials to China and Hong Kong and other defamatory statements set forth herein are defamatory per se, because they falsely accuse Intercon of criminal wrongdoing and impute to Intercon an inability to perform or want of integrity in the discharge of its duties, and they prejudice Intercon and impute a lack of ability in its trade, profession or business.

ANSWER: Defendants deny the allegations in Paragraph 19.

20. BAN, without privilege and with actual or constructive knowledge of their falsity, publicized these statements to the public, Intercon customers, and other persons and entities that Intercon must do business with in the industry.

ANSWER: Defendants deny the allegations in Paragraph 20.

21. BAN made such statements with negligence and/or actual malice, in that they knew or should have known that such statements were false.

ANSWER: Defendants deny the allegations in Paragraph 21.

22. The publication of these defamatory falsehoods demonstrates that BAN acted willfully and wantonly, and with a direct intent to injure Intercon as evidenced by, inter alia, BAN's deficient and unlawful "investigation," the nature and scope of its defamatory publication and the fact that BAN continues to post and publish these defamatory statements despite the criticism it has received about its unsupported, and false accusations against Intercon.

ANSWER: Defendants deny the allegations in Paragraph 22.

23. As a direct and proximate result of these false and defamatory statements, Intercon is and continues to suffer damage and disruption to its customer relationships and reputation and has experienced losses and reduction of business.

ANSWER: Defendants deny the allegations in Paragraph 23. Defendants further deny that Intercon is entitled to any relief for this claim.

COUNT II – DEFAMATION:
PUCKETT

24. Intercon realleges and incorporates by reference Paragraphs 1 through 17 of the General Allegations to the Complaint herein.

ANSWER: Defendants reallege and incorporate by reference their responses to Paragraphs 1 through 23.

25. The false statements made by Puckett that Intercon shipped hazardous materials to China and Hong Kong and other defamatory statements set forth herein are defamatory per se, because they falsely accuse Intercon of criminal wrongdoing and impute to Intercon an inability to perform or want of integrity in the discharge of its duties, and they prejudice Intercon and impute a lack of ability in its trade, profession or business.

ANSWER: Defendants deny the allegations in Paragraph 25.

26. Puckett, without privilege, publicized these statements.

ANSWER: Defendants deny the allegations in Paragraph 26.

27. Puckett made such statements with negligence and/or actual malice, in that he knew or should have known that such statements were false.

ANSWER: Defendants deny the allegations in Paragraph 27.

28. The circumstances surrounding Puckett's publication of these defamatory falsehoods demonstrate that Puckett acted willfully and wantonly, and with a direct intent to injure Intercon as evidenced by inter alia, the nature and scope of its defamatory publication and the fact that BAN continues to post and publish these defamatory statements despite the criticism it has received about its unsupported, and false accusations against Intercon.

ANSWER: Defendants deny the allegations in Paragraph 28.

29. As a direct and proximate result of these false and defamatory statements, Intercon is and continues to suffer damage and disruption to its customer relationships and reputation and has experienced losses and reduction of business.

ANSWER: Defendants deny the allegations in Paragraph 29. Defendants further deny that Intercon is entitled to any relief for this claim.

COUNT III – FALSE LIGHT: BAN

30. Intercon realleges and incorporates by reference Paragraphs 1 through 17 of the General Allegations to the Complaint herein.

ANSWER: Defendants reallege and incorporate by reference their responses to Paragraphs 1 through 29.

31. Intercon was placed in a false light before the public when BAN falsely accused Intercon of violating laws and engaging in improper business practice by, inter alia, shipping

hazardous e-Waste materials. BAN continues to refer to Intercon when discussing other alleged wrongdoers in the e-recycling industry.

ANSWER: Defendants deny the allegations in Paragraph 31.

32. The false light would be highly offensive to a reasonable person, since BAN falsely accused Intercon of criminal wrongdoing and imputed to Intercon an inability to perform or want of integrity in the discharge of its duties, and they prejudice Intercon and impute a lack of ability in its trade, profession or business.

ANSWER: Defendants deny the allegations in Paragraph 32.

33. BAN did so with actual malice because it had knowledge or recklessly disregarded that the statements were false and placed Intercon in a false light.

ANSWER: Defendants deny the allegations in Paragraph 33. Defendants further deny that Intercon is entitled to any relief for this claim.

COUNT IV – FALSE LIGHT: PUCKETT

34. Intercon realleges and incorporates by reference Paragraphs 1 through 33 of the General Allegations to the Complaint herein.

ANSWER: Defendants reallege and incorporate by reference their responses to Paragraphs 1 through 33.

35. Intercon was placed in a false light before the public when Puckett falsely accused Intercon of shipping hazardous e-Waste materials. Puckett continues to refer to Intercon when discussing other alleged wrongdoers in the e-recycling industry.

ANSWER: Defendants deny the allegations in Paragraph 35.

36. The false light would be highly offensive to a reasonable person, since Puckett falsely accused Intercon of criminal wrongdoing and imputed to Intercon an inability to perform or want of integrity in the discharge of its duties, and they prejudice Intercon and impute a lack of ability in its trade, profession or business.

ANSWER: Defendants deny the allegations in Paragraph 36.

37. Puckett did so with actual malice because he had knowledge or recklessly disregarded that the statements were false and portrayed Intercon in a false light.

ANSWER: Defendants deny the allegations in Paragraph 37. Defendants further deny that Intercon is entitled to any relief for this claim.

COUNT V – INJUNCTIVE RELIEF: BAN AND PUCKETT

38. Intercon realleges and incorporates by reference Paragraphs 1 through 17 of the General Allegations to the Complaint herein.

ANSWER: Defendants reallege and incorporate by reference their responses to Paragraphs 1 through 37.

39. Intercon has clearly ascertainable business interests and a right in need of protection in that Intercon had confidential information that BAN and Puckett obtained under false pretenses and unlawfully disclosed, and Intercon had long-term, near permanent relationships with its customers and other business associates with which BAN and Puckett unlawfully interfered.

ANSWER: Defendants deny the allegations in Paragraph 39.

40. Intercon has no adequate remedy at law.

ANSWER: Defendants deny the allegations in Paragraph 40.

41. Absent an injunction restraining BAN and Puckett from further stating that Intercon engages in illegal and unethical business practices and was in possession of and shipped hazardous waste to China and Hong Kong, and disseminating Intercon's confidential information, Intercon will suffer irreparable harm.

ANSWER: Defendants deny the allegations in Paragraph 41.

42. Intercon has a likelihood of success on the merits of its Defamation and False Light claims against BAN and Puckett.

ANSWER: Defendants deny the allegations in Paragraph 42. Defendants further deny that Intercon is entitled to any relief for this claim.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

43. The Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

44. The Court lacks jurisdiction over some or all the defendants.

THIRD AFFIRMATIVE DEFENSE

45. Venue is inappropriate as to all or some of the defendants.

FOURTH AFFIRMATIVE DEFENSE

46. The Complaint violates pertinent provisions of state law and state and federal constitutions.

FIFTH AFFIRMATIVE DEFENSE

47. The Complaint is barred by the doctrine of unclean hands and other pertinent equitable principles.

SIXTH AFFIRMATIVE DEFENSE

48. All statements and comments made by Defendants were true, and thus, cannot be the basis for a defamation claim.

SEVENTH AFFIRMATIVE DEFENSE

49. All statements and comments made by Defendants concerning Plaintiff were made in good faith and concern matters which affect the interest of the general public. Therefore, Defendants' statements are protected by conditional privilege.

EIGHTH AFFIRMATIVE DEFENSE

50. No act or omission on the part of Defendants either caused or contributed to whatever injury (if any) Plaintiff may have sustained.

NINTH AFFIRMATIVE DEFENSE

51. The Complaint is barred by the doctrine of substantial truth.

TENTH AFFIRMATIVE DEFENSE

52. The Complaint is barred by the *Noerr-Pennington* doctrine.

ELEVENTH AFFIRMATIVE DEFENSE

53. Defendants reserve the right to assert additional affirmative defenses as they discover the basis for them.

BASEL ACTION NETWORK'S COUNTERCLAIM

For its counterclaim against Plaintiff Intercon Solutions, Inc., Defendant Basel Action Network states as follows:

THE PARTIES

1. On information and belief, Plaintiff and Counterclaim-Defendant Intercon Solutions, Inc. ("Intercon") is a California corporation with its principal place of business located at 1011 Washington Avenue, Chicago Heights, Illinois 60411.

2. Defendant and Counterclaim-Plaintiff Basel Action Network ("BAN") is a 501(c)(3) charitable organization, located at 206 First Avenue South, Suite 410, Seattle, Washington 98104.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this counterclaim pursuant to 28 U.S.C. § 1367.

4. This Court has personal jurisdiction over Intercon on the basis of, *inter alia*, its contacts with Illinois.

5. Venue is proper under 28 U.S.C. § 1391.

BACKGROUND

6. BAN is named for the Basel Convention, a United Nations multilateral environmental agreement, which in 1995 passed a landmark decision to amend the Convention to ban the export of hazardous waste for any reason from rich to poorer countries. This Basel Ban Amendment has been legislatively adopted in most of the developed world, including the European Union, but it has not been ratified and implemented by the United States Congress. A fundamental part of BAN's mission is to promote the Basel Ban Amendment Ratifications globally and to prevent the weakening of this amendment. In the United States, BAN works in

coalition with the Electronics Take Back Coalition and industry allies in seeking Congressional implementation of both the Ban Amendment and the Convention in particular for hazardous electronic wastes (e-wastes).

7. BAN is recognized by the United Nations Environment Program as a leading organization dedicated exclusively to issues of “toxic trade” and as such, is invited regularly to participate as NGO experts and stakeholders in Partnership programs, expert working groups, and other policy deliberations. BAN has also worked closely with the Organization of Economic Cooperation and Development (OECD), the UNEP Chemicals Program, and UNEP Governing Council. BAN works with country allies in these meetings to secure commitments and decisions in support of its mission. BAN has also produced Model National Legislation on toxic waste trade for developing countries.

8. Because the United States has not enacted the Ban Amendment and Convention, BAN developed a market-based program by which e-waste recycling companies can be audited by a third party auditor and obtain certification as an e-Stewards® branded recycler. An eligible recycling company can achieve e-Stewards Certification if it passes an approved Certifying Body audit by a trained auditor and, in addition, meets the terms of the BAN e-Stewards Recycling license agreement. Intercon sought such e-Stewards certification, and BAN’s communications regarding the evidence discovered about Intercon and BAN’s subsequent refusal to allow its certification are the faulty platform for Intercon’s claims against BAN.

9. Additionally, BAN’s efforts include actions to influence legislative and enforcement policy changes in the United States. For example, BAN identifies and publicizes the negative consequences of legislative and enforcement failure to address the issue of global dumping of electronic and other hazardous wastes, including the absence of United States ratification of the Basel Ban Amendment and Basel Convention. BAN regularly reports to state and federal and international regulatory and oversight agencies, including US Immigration and

Customs Enforcement (ICE), US EPA Criminal Enforcement, the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL), Interpol Environmental Crime Unit, and the Government Accountability Office (GAO), concerning the evidence it obtains so that appropriate enforcement actions will occur.

10. The United States is believed to be the world's largest producer of e-waste; national regulation of e-waste is lax and e-waste is regularly exported to developing countries where our old computers, cathode ray tubes, and discarded telephones are dismantled under extraordinarily harmful environmental conditions. This rampant export of domestic hazardous e-waste to developing countries for negligent recycling and disposal occurs due to inadequate laws and enforcement. BAN's unique investigations have led to a number of nationally televised documentary programs such as CBS's "60 Minutes" in the United States, PBS's Frontline program and documentaries produced around the world – all of which uncovered rampant export of e-waste to developing countries on the continents of Africa and Asia. In the case of the 60 Minutes report concerning a Denver e-waste disposal company, BAN's investigation, which involved the same methodologies employed with respect to Intercon, resulted in federal criminal prosecution of the owner of that business. BAN representatives have been told that they will be called upon as government witnesses in this prosecution. Such methodologies have been called "best practices" by the head of Interpol's Environmental Crime unit.

11. Intercon filed this suit in order to intimidate BAN and silence BAN's communications in furtherance of BAN's legislative and governmental enforcement objectives to change government policy, to move the United States to adoption of the Basel Ban Amendment and Basel Convention, to enhance enforcement action in the United States, and to heighten awareness of exportation of e-waste among the public, enterprise customers and regulatory authorities.

COUNTERCLAIM: DECLARATORY RELIEF

12. BAN realleges and incorporates by reference the allegations of paragraphs 1-11.

13. BAN requests a declaration, pursuant to 28 U.S.C. § 2201, that its statements with respect to Intercon's electronic waste disposal practices are true.

14. A present, genuine, and justiciable controversy exists between BAN and Intercon regarding, *inter alia*, the truth of BAN's statements with respect to Intercon's electronic waste disposal practices.

15. BAN is entitled to a declaration that its statements regarding Intercon's electronic waste disposal practices are true.

DEMAND FOR A JURY TRIAL

16. BAN hereby demands a trial by jury, under Rule 38 of the Federal Rules of Civil Procedure, for all issues triable of right by a jury.

PRAYER FOR RELIEF

Wherefore, having stated its answer and affirmative defenses and Counterclaim, Defendants pray for relief as follows:

1. The Plaintiff should be denied the relief requested;
2. For a declaration that BAN's statements with respect to Intercon's waste disposal practices are true;
3. For attorneys fees and costs, and statutory fees, to the extent applicable; and
4. For such other and further relief as the Court deems just and proper.

Dated: August 31, 2012

Respectfully submitted,

/s/ Brendan F. Barker
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*Attorneys for Defendants Basel Action Network
and James Puckett*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by U.S.

Mail and e-mail on plaintiff's counsel listed below this 31st day of August, 2012:

Plaintiff:

Paul E. Starkman

Svetlana Zavin

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By: /s/ Brendan F. Barker